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Atty Docket No.: 407T-907720US
Client Ref: 2000-453-3

August 28, 2002
QUINE Intellectual Property Law Group, P.C.,

By

Chianti Appling

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

**JOHN CLARK LAGARIAS,
TAKAYUKI KOICHI, NICOLE
FRANKENBERG, GREGORY A.
GAMBETTA, and BERONDA L.
MONTGOMERY**

Examiner: unassigned

Application No.: **09/870,406**

Art Unit: unassigned

Filed: **5/29/2001**

For: **HY2 FAMILY OF BILIN
REDUCTASES**

**RESPONSE TO NOTICE OF INCOMPLETE
REPLY**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This amendment is filed in response to the Notice of Incomplete Reply mailed on May 28, 2002. The following documents are enclosed herewith:

- 1) A petition to extend the period of response for two months;
- 2) A copy of the Notice of Incomplete Reply;
- 3) 22 pages of formal drawings;
- 3) A paper copy of the sequence listing; and
- 4) A computer readable form of the sequence listing.

Please amend the claims and/or specification as follows

In the Specification.

Please delete the existing drawings and insert the accompanying 22 pages of formal drawings.

Please delete the sequence listing, and insert the substitute sequence listing pages 1-47.



REMARKS

A) Response to Notice of Incomplete Reply:

This amendment is provided in Response to the Notice of Incomplete Reply (Nonprovisional) mailed on May 28, 2002. In that notice, the Formalities Letter indicated that the reply to the Notice of Missing Parts was incomplete because:

- 1) The drawing sheets therein allegedly did not have the appropriate margins;
- 2) The computer readable form of the sequence listing was allegedly found to be damaged and/or unreadable.

To remedy these alleged defects, Applicants enclose here substitute figures and a substitute sequence listing (electronic form and paper copy). Applicant(s) request entry of this amendment in adherence with 37 C.F.R. §§1.821 to 1.825. This amendment is accompanied by a floppy disk containing the sequences (SEQ ID NOs:1-57) in computer readable form, and a paper copy of the sequence information that has been printed from the floppy disk.

The information contained in the computer readable form (floppy disk) was prepared through the use of the software program "PatentIn" and is identical to that of the paper copy.

This amendment contains no new matter. The amendments to the specification and/or claims are to provide a formal sequence listing and/or to provide appropriate cross-references to SEQ ID Numbers in accordance with 37 C.F.R. §§1.821 to 1.825. The sequence information provided herein finds support in the specification as filed.

B) Time Period for Response to Notice of Incomplete Reply

The Notice of Incomplete Reply further states that the period of time to respond remains as set forth in the Notice of Missing Parts. This is procedurally incorrect. Applicants believe they should have been given one month to respond with extensions of time as provided under 35 U.S.C. §1.136(a).

Applicants timely filed a *bona fide* response to the Notice of Missing Parts on November 20, 2001 containing both the requested sequence listing and substitute figures. The Patent Office however, failed to respond to Applicants submission with the Notice of Incomplete Reply until May 28, 2002, nearly six months later.

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According to M.P.E.P §714.03.

Where the amendment is *bona fide* but contains a serious omission, the examiner should: A) if there is sufficient time remaining for applicant's reply to be filed within the time period for reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a)), notify applicant that the omission must be supplied within the time period for reply; or B) **if there is insufficient time remaining**, issue an Office action **setting a 1-month time period to complete the reply pursuant to 37 CFR 1.135(c)**. In either event, the examiner should not further examine the application on its merits unless and until the omission is timely supplied. **If a new time period for reply is set pursuant to 37 CFR 1.135(c), applicant must supply the omission within this new time period for reply (or any extensions under 37 CFR 1.136(a) thereof)** in order to avoid abandonment of the application.. [emphasis added]

Similarly, M.P.E.P. §2422.07 states:

When an action by the applicant is a *bona fide* attempt to comply with these rules and it is apparent that compliance with some requirement has inadvertently been omitted, the applicant may be given a new time period to correct the omission. See 37 CFR 1.135(c).

and paragraph 24.03 states:

¶ 24.03 Compact Disc/CRF Submission Is Not Fully Responsive, Bona Fide Attempt

The reply filed [1] is not fully responsive to the Office communication mailed [2] for the reason(s) set forth below or on the attached Notice To Comply With The Sequence Rules or CRF Diskette Problem Report. Since the above-mentioned reply appears to be bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a). When the reply appears to be bona fide, but through an apparent oversight or inadvertence failed to provide a complete reply, use form paragraph 24.03. 2.

Accordingly, Applicants believe the Notice of Incomplete Reply should have granted Applicants one month to respond with extensions of time available under 37 CFR 1.136(a).

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Accordingly, Applicants believe the present response with petition for two month extension of time is timely filed.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 337-7871.

QUINE INTELLECTUAL PROPERTY LAW
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Tel: 510 337-7871
Fax: 510 337-7877

Respectfully submitted,



Tom Hunter
Attorney for Applicant(s)
Reg. No: 38,498

Please type a plus sign (+) inside this box → ☒

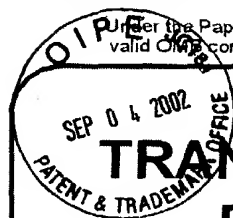
09870406 090402

(Modified) PTO/SB/21 (6-98)

Approved for use through 09/30/2000. OMB 0651-0031

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/870,406
Filing Date	May 29, 2001
First Named Inventor	John Clark Lagarias
Group Art Unit	Unassigned
Examiner Name	Unassigned
Attorney Docket Number	407T-907720US
Total Number of Pages in This Submission	

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Copy of Executed Assignment	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Executed Declaration	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment / Response	<input checked="" type="checkbox"/> Drawings	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice Brief Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Letter to Official Draftsperson	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Substitute Specification	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Executed Power of Attorney and 3.73b Certificate	<input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below)
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Sequence Listing with Diskette receipt acknowledgment postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Small Entity Statement	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Request for Refund	
<input checked="" type="checkbox"/> Copy of Notice of Incomplete Reply	Authorization to Charge Deposit Account Please charge Deposit Account No. 50-0893 for any additional fees associated with this paper or during the pendency of this application, including any extensions of time for consideration of the documents enclosed.	
<input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	Remarks	

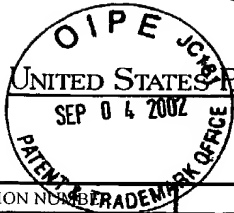
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Tom Hunter, Reg. No. 38,498, Quine Intellectual Property Law Group P.C.
Signature	
Date	8/22/02

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D C. 20231 on this date. Aug. 28, 2002

Typed or printed name	Chianti Appling	Signature		Date	8/28/02
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/870,406	05/29/2001	John Clark Lagarias	407T-907730US

22798
LAW OFFICES OF JONATHAN ALAN QUINE
P O BOX 458
ALAMEDA, CA 94501

CONFIRMATION NO. 7073

FORMALITIES LETTER



OC000000008191264

Date Mailed: 05/28/2002

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 01/07/2002 to the Notice to File Missing Parts (Notice) mailed 08/02/2001 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:


- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)) Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch),
- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216

- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE